



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

WINDHAM PROFESSIONAL FIREFIGHTERS
ASSOCIATION, LOCAL 2915, I.A.F.F.

Petitioner

v.

TOWN OF WINDHAM, N.H.

Respondent

CASE NO. F-0134:2 & F-0134:3

DECISION NO. 90-57

APPEARANCES

Representing Local 2915, Windham Firefighters:

Glenn R. Milner, Esq., Counsel

Representing the Town of Windham:

Gary W. Wulf, Consultant

BACKGROUND

I. Windham Professional Firefighters Association, Local 2915, IAFF (Union) filed unfair labor practice charges against the Town of Windham (Town) for refusing to negotiate terms and conditions of employment for the Lieutenants, members of the certified unit.

The Town denied the charges stating it had proposed that Lieutenants be excluded from the unit as significant changes had occurred in their assignments and duties since certification under 273-A.

II. Included in the Town's response was a "Petition to Modify" the certified unit to exclude the position of Lieutenants.

A hearing on the unfair labor charge and the modification petition was held in the Board's office in Concord on May 24, 1990 with all parties present.

FINDINGS OF FACT

The unit as certified by PELRB on June 19, 1989 included lieutenants and firefighters.

Petition submitted on May 9, 1989 was signed in agreement by Ronald L. Hoegen, President of the Association and Frederic H. Noyles, Selectmen for the Town and accepted as signed by David Sullivan, Town Administrator.

A pre-election conference was held in the Town Hall on June 12, 1989 with all parties present. Election was then scheduled and held June 19, 1989 with all eligible voters casting ballots and all voting in favor of representation.

Although certification was issued in June, 1989 it was not until unfair labor charges were filed that the Town with its response filed to modify the certified unit, even though it had proposed their exclusion back in January of '90.

Certification in June '89 ordered the Town to negotiate with the Union for wages, benefits, conditions of employment and settlement of grievances.

The Town waited until six months later, after the new chief was hired to begin negotiations with the first session held December 15, 1989 and second session a month later on January 17, 1990.

The lieutenants in the absence of the chief or deputy assume responsibility for the operations of the department however they have limited authority. For example, should they determine overtime is necessary, they cannot authorize it prior to calling and getting approval from the Chief or the Deputy Chief nor do they have the authority to discipline a firefighter by sending him home. They may, however give verbal warnings but recommendations for discipline must be made to the Chief or Deputy Chief for any disciplinary action.

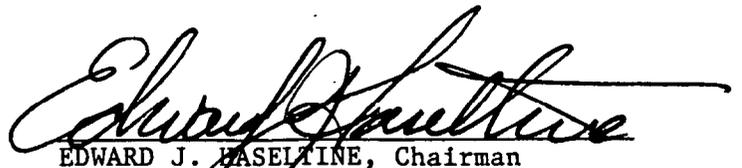
Budgetary authority is reserved strictly to the Chief and Deputy Chief although input may be requested of the lieutenants.

DECISION AND ORDER

After review of testimony and exhibits presented in both cases, the Board finds as follows;

- I. The Town of Windham guilty of unfair labor practice by refusing to negotiate wages, benefits and terms of conditions for lieutenants in violation of RSA 273-A:5, I (e).
- II. The Town is hereby ORDERED to negotiate with Local 2915 as expeditiously as possible and to report compliance to this order, in writing, within 30 days.
- III. The Petition for Modification of the certified unit to exclude the position of lieutenants is hereby DENIED and DISMISSED.
- IV. The Town is ordered to post this order at the Town Hall and the Fire Station in accordance with PELRB Rule Pub 304.

Signed this 26th day of June, 1990.


EDWARD J. HASELTINE, Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding. Members Richard W. Roulx and Vincent Hall present and voting. Also present, Executive Director, Evelyn C. LeBrun.